

**DURHAM, NORTH CAROLINA  
MONDAY, JANUARY 7, 2002  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Absent: None.

Also present: City Manager Marcia L. Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with the Pledge of Allegiance.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner indicated changes to Supplemental Item #33 [Sales Tax Refund Audit]; distributed a memo dated January 7<sup>th</sup> entitled Assessment of City's Response to January 3-7, 2002 Winter Storm and commented on the three-day video shoot of Dawson's Creek in downtown Durham.

There were no priority items from the City Attorney and City Clerk.

Mayor Bell announced that the January 10, 2002 Council Work Session (COW) will begin at 12 noon instead of 1:00 p.m. due to the length of agenda.

City Manager Conner requested a closed session after the regular business of Council to discuss the location or expansion of industries or other businesses in the City of Durham.

Council Member Clement thanked former Council Member Angela Langley and others involved in building a ramp for a paralyzed individual.

**SUBJECT: CLOSED SESSION – LOCATION OR EXPANSION OF INDUSTRIES OR  
OTHER BUSINESSES IN THE CITY OF DURHAM**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cheek to go into a closed session after the regular business to Council to discuss matters relating to the location or expansion of industries or other businesses in the City of Durham was approved at 7:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any item(s) from the Consent Agenda. **[No items were pulled]**

Relative to Consent Agenda Item #8 [Status Report on Development of Additional Water Supplies for Durham], Council Member Clement requested the administration to come back with a status report on the impact of the recent precipitation on Durham's water supply.

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In relation to Consent Agenda Item #19 [Cable Television Franchise Extension Public Hearing], Council Member Clement directed the City Clerk and Public Affairs Office to advertise the public hearing scheduled for Tuesday, January 22, 2002 at 7 p.m. concerning this item.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the Consent Agenda as printed was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: MINUTES FOR APPROVAL – CITY CLERK’S OFFICE**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the official minutes of the November 19, 2001 regular City Council Meeting was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: PROHIBITED PARKING - BROAD STREET**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an “Ordinance Prohibiting Parking” as follows was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

- a. on the west side of Broad Street, in the area beginning at the south curb line of Knox Street, if extended, and extending for a distance of 110 feet southwardly;
- b. on the west side of Broad Street, in the area beginning at the north curb line of Knox Street, if extended, and extending for a distance of 85 feet northwardly; and
- c. on the east side of Broad Street, in the area beginning at the north curb line of Club Boulevard, if extended, and extending for a distance of 138 feet northwardly.

**Ordinance # 12481**

**SUBJECT: FISCAL YEAR 2002-2003 PRELIMINARY BUDGET AND FISCAL YEAR 2003-2008 CAPITAL IMPROVEMENT PLAN - SETTING A PUBLIC HEARING**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to set a public hearing on **Tuesday, January 22, 2002** to receive comments from the public on the Fiscal Year 2002-03 Preliminary Budget and Fiscal Year 2003-08 Capital Improvement Plan was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**SUBJECT: STATUS REPORT ON DRINKING WATER DISINFECTION PROCESS  
CHANGE - UNITED STATES ENVIRONMENTAL PROTECTION  
AGENCY**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a status report on the City of Durham's progress in complying with the United States Environmental Protection Agency's Stage 1 Disinfection/Disinfection By- Products Rule for drinking water was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: STATUS REPORT ON DEVELOPMENT OF ADDITIONAL WATER  
SUPPLIES FOR DURHAM - JORDAN LAKE ALLOCATION**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a report on current progress of development of additional water supplies for Durham; and

To adopt a "Resolution To Support the Recommended 10 MGD Water Supply Allocation from Jordan Lake for the City of Durham" was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**Resolution # 8828**

**SUBJECT: COMPUTER ENRICHMENT CONTRACT FOR THE PARKS AND  
RECREATION DEPARTMENT - EXCELLENCE BY CHOICE, INC.**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a contract with Excellence By Choice, Inc. in the amount of \$65,000 to provide services to nine recreation centers for computer enrichment programs; and

To authorize the City Manager to make changes to the contract, such that the scope of service is not reduced and the contract amount is not increased was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: FOREST HILLS PARK VEHICULAR BRIDGE REPLACEMENT  
PROJECT - POLOVICK CONSTRUCTION CO., INC.**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a contract with Polovick Construction Co., Inc. for the sum of \$36,000 plus a \$5,000 contingency for the Forest Hills Vehicular Bridge Replacement Project; and

To authorize the City Manager to negotiate and execute change orders on the Forest Hills Park Vehicular Bridge Replacement Project provided that the total cost of all change orders does not

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exceed \$5,000 and the total project cost does not exceed the \$41,000 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: RENOVATION CONSTRUCTION CONTRACT FOR THE ST. JOSEPH'S CHURCH SANCTUARY - BLAIR CONSTRUCTION COMPANY**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a contract amendment increasing the amount of the Blair Construction Company contract by \$6,710 from \$1,782,823 to \$1,789,533 to cover additional change order work not covered by the current contract was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: TRANSFER OF PROJECT FUNDS TO THE FAY STREET CONTINGENCY - MAINTENANCE FACILITY**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to increase the contingency for the Fay Street Maintenance Facility project by \$186,506.39 from \$450,000 to \$636,506.39; and

To authorize the City Manager to negotiate and execute change orders for the Fay Street Maintenance Facility project provided the cost of all change orders does not exceed \$636,506.39 and the total project cost does not exceed the Capital Project Ordinance of \$7,100,000 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CABLE TELEVISION FRANCHISE EXTENSION PUBLIC HEARING – TIME WARNER CABLEVISION**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to set a public hearing to be held **Tuesday, January 22, 2002** to receive citizens' comments on the additional extension, through October 31, 2002, of the current cable television franchise, granted by Ordinance #9172, as amended by Ordinance #12106 and #12274 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: DURHAM COMMUNITY SHELTER FOR HOPE, INC. MODIFICATION AGREEMENT - URBAN MINISTRIES OF DURHAM, INC.**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute the grant agreement with Urban Ministries of Durham, Inc. to provide a maximum of \$1,036,000 for the Community Shelter, with \$300,000 of this to be from City Housing 1996 Bond funds, and \$726,000 from HOME funds, both of these amounts to be spent

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on construction costs, and \$10,000 in CDBG funds to pay for consultation services; and that this grant agreement replace the agreement previously authorized by City Council on March 5, 2001; and

To authorize the City Manager to make modifications to the grant agreement so long as such modifications are consistent with regulations governing the funding for this project, city policies, and the agenda memorandum for this item was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: GOOD WORK SUB-RECIPIENT CONTRACT - TECHNICAL ASSISTANCE FOR SMALL BUSINESSES AND INDIVIDUALS**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a sub-recipient contract with Good Work in an amount not to exceed \$67,000 of Community Development Block Grant Funds to provide technical assistance to low- and moderate-income small businesses and individuals was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: DURHAM COMMUNITY LAND TRUSTEES, INC. SUB-RECIPIENT CONTRACT - CONSTRUCTION MANAGER**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a sub-recipient contract with Durham Community Land Trustees, Inc. for the Construction Manager position in an amount not to exceed \$36,000 of Community Development Block Grant Funds was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[GENERAL BUSINESS AGENDA - OTHER MATTERS]**

**SUBJECT: NC 54/I-40 CORRIDOR STUDY PLAN**

To adopt one of the identified Options, Option I, II, or III regarding the Kentington Heights Neighborhood.

To adopt the NC 54/I-40 Corridor Study Plan (including Corridor Study Draft Plan, two parts-- Narrative and Map Book; update dated June 25, 2001; and update labeled Housing), including the conforming modifications to Area A consistent with the Council's action above regarding Kentington Heights. (Area A was adopted in September 2000. Areas B & C have not been adopted yet.)

Mayor Bell noted this item is before the City Council for discussion and there will be no public comments.

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Dick Hails, Acting City/County Planning Director, commented on the three options that would identify clarifying language regarding the land use for the Kentington Heights area and urged Council to adopt Areas B and C of the NC 54/I-40 Corridor Study Plan.

Mayor Bell asked the administration if Council could adopt Areas B & C before Area A.

Dick Hails, Acting City/County Planning Director, replied yes.

A motion was made by Mayor Pro Tempore Cheek seconded by Council Member Cole-McFadden to adopt Areas B & C of the NC 54/I-40 Corridor Study Plan.

Council Member Clement raised a concern about adopting Areas B & C before A and urged Council to proceed with the agenda as written.

A substitute motion was made by Council Member Clement seconded by Council Member Best to adopt Option 1 [General Commercial Zoning] as the land use plan for the Kentington Heights area.

Council held discussion on buffering.

Mayor Pro Tempore Cheek spoke in opposition to the substitute motion noting there is no way that general commercial use for Area A is clarifying language.

Council Member Clement spoke in support of Option 1 which would grant the residents of Kentington Heights the opportunity to sell their land to get the best price.

Council Member Best spoke in support of the substitute motion noting that all options should be on the table.

Mayor Bell noted that he would be voting against the substitute motion because this is in the County Commissioners' zoning jurisdiction.

**SUBSTITUTE MOTION** by Council Member Clement seconded by Council Member Best to adopt Option 1 [General Commercial Zoning] as the land use plan for the Kentington Heights area was approved at 7:34 p.m. by the following vote: Ayes: Council Members Best, Clement, Edwards and Stith. Noes: Mayor Bell, Mayor Pro Tempore Cheek and Council Member Cole-McFadden. Absent: None.

Council Member Clement asked the Mayor to seek an audience in behalf of the City Council with the County Commissioners at their regular meeting conveying to them what the Council has approved for Area A [Kentington Heights].

**MOTION** by Council Member Clement seconded by Council Member Stith to authorize the Mayor and Council to meet with the County Commissioners to convey the City Council's action regarding Kentington Heights was approved at 7:37 p.m. by the following vote: Ayes: Council Members Best, Clement, Edwards and Stith. Noes: Mayor Bell, Mayor Pro Tempore Cheek and Council Member Cole-McFadden. Absent: None.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Clement to adopt Areas B and C of the NC 54/I-40 Corridor Study Plan was approved at 7:38 p.m. by the following vote:

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Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: APPEAL TO THE DECISION TO REVOKE OPERATING PERMIT NUMBERS 141 AND 175 - STAR CAB COMPANY - ANN DIXON**

To hear an appeal of the decision of the Passenger Vehicle for Hire Commission concerning the Revocation Star Cab Company Operating Permit numbers 141 and 175.

Gracie Chamblee, Taxicab Inspector, briefed Council on this item making comments about the revocation and appeal. She noted that staff recommends the revocation of Star Cab Company operating permit numbers 141 and 175.

Council held discussion on the extension, code, appeal and inspection.

LaVonia Allison urged the Council to review the ordinance regarding the issue of safety shields and cameras.

Gracie Chamblee, Taxicab Inspector, noted this is a separate item and the issue regarding the safety shield will be addressed at the January 22, 2002 City Council Meeting.

Council Member Clement noted also this issue will be discussed at the January 16, 2002 Passenger Vehicle for Hire Subcommittee meeting.

Mayor Bell asked if Ms. Dixon was notified of tonight's meeting.

Gracie Chamblee, Taxicab Inspector, replied yes.

**MOTION** by Council Member Clement seconded by Council Member Edwards to approve revocation of Operating Permit numbers 141 and 175 of the Star Cab Company [as recommended by the Passenger Vehicle for Hire Commission] was approved at 7:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: OFFER TO PURCHASE CITY TRACT #50 ON HILLSBOROUGH ROAD - ROBERT WESTBROOK CONSTRUCTION COMPANY**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Edwards to accept the offer of \$145,000 from Robert Westbrook Construction Company to purchase City Tract #50 was approved at 7:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: PARKING DECK CONDITION ASSESSMENTS - KIMLEY-HORN AND ASSOCIATES, INC.**

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**MOTION** by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute a contract with Kimley-Horn and Associates, Inc. to provide a Condition Assessment for each of the City's four parking decks, in an amount not to exceed \$79,000; and

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the dollar amount of the contract, and do not decrease the goods and services to be provided to the City; and

To authorize the City Manager to negotiate and execute amendments to the contract with Kimley-Horn and Associates, Inc., provided the total cost of all amendments does not exceed the original negotiated price of \$79,000 was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: PARKING DECK SECURITY CONTRACT - BURNS INTERNATIONAL SECURITY SERVICES CORPORATION**

**MOTION** by Council Member Cole-McFadden seconded by Council Member Clement to authorize the City Manager to execute a one-year security contract in the amount of \$172,652.48 with Burns International Security Services Corporation to provide security services in all City of Durham's parking decks was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: BARNDORF PROPERTIES REHABILITATION - 1116 LIBERTY STREET – 1101 EVA STREET – 106 N. HYDE PARK AVENUE – 1206 GEARWOOD AVENUE**

To authorize the City Manager to execute loan documents for a rehabilitation loan to Barndorf Properties; to make minor modifications to these documents that do not increase the amount of the contract and which are consistent with the original intent of the project; to increase the project funding commitment by \$60,000; and, to authorize the expenditure of \$200,000 from 1996 Housing Bond Funds for this loan.

Mayor Bell noted that Council Members Clement and Cole-McFadden along with him visited properties on Barnes Avenue and Liberty Street. He raised a concern about the rehab standards and it was suggested that the Inspections Department be included in writing standards for properties that are being rehabilitated. The Mayor directed staff to look at doing more than meeting the minimum code standards for rehab properties.

Paul Joyner of the Housing Department noted the rehabs viewed by the Mayor and others did not include any City funds. He stated these are properties that the developer rehabilitated himself. Also, he noted the City would use rehab standards that go far beyond the minimum housing code.

Council Member Clement raised a concern about the area being infested with drug activity.



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Council Member Cole-McFadden asked the administration if they would write the specs and rehab standards and if there are plans to have a police sub-station in that area.

Paul Joyner of the Housing Department replied yes to the specs and rehab standards.

Relative to the police sub-station, City Manager Conner noted a presentation would be given on Thursday, January 10 that includes a public safety component for Barnes Avenue.

Mayor Pro Tempore Cheek asked staff how did they arrive at the figure of \$200,000 and raised a concern about having enough money budgeted to finish the properties.

Paul Joyner of the Housing Department noted the developer and project manager worked on the construction budget.

Nixon Alexander, Project Manager of the Housing Department, briefed Council noting the City is also using this money as match money for the City's lead abatement program granted by the Department of Housing and Urban Development several years ago. A part of this project in addition to the \$200,000 is \$40,000 of improvements to the property that would be designed to reduce or eliminate lead base paint hazards in these structures. Once the work is completed for the lead hazards, the City will go back to the developer and prepare a detailed specification for the work to be completed for the project. Also, he noted that the developer has agreed if the loan is not sufficient, they will put their own funds in to cover the construction cost loan only.

Mayor Pro Tempore Cheek raised a concern about committing \$200,000 to this rehabilitation since the City does not know what is going to be required and noted the City needs to find the funds to do the lead abatement first and then go back and take a look at the project. Also, the Mayor Pro Tempore asked the developer if he has a commitment for funds from other sources to take care of any shortfall and where would the funds come from.

The developer of Barnes Avenue properties indicated that he has been working on this project for the last two years. Also, he noted that they are willing to put in any money they are short on at the end to finish this project. Also, he noted CCB is their lender.

Mayor Pro Tempore Cheek noted he could not support this item.

Council held discussion on rehab standards, owner of properties, how the lead is eliminated/removed and the lead abatement program.

Council Member Stith asked staff if the developer's commitment is documented to provide additional funding if the project is under budget.

Nixon Alexander, Project Manager of the Housing Department, noted it is written. He noted the City is loaning the developer \$200,000, the developer is going to complete rehab work on these properties to meet the City's requirements in cooperation with the City and the developer will provide more money beyond the \$200,000 if necessary.

Council held discussion on the construction loan agreement.

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Council Member Clement spoke in support of this item.

Mayor Bell spoke in support of the intent but raised a concern with the process and asked the developer/administration to bring back a construction budget.

Nixon Alexander, Project Manager of the Housing Department, noted the lead grant expires this spring and made comments about an extension.

City Manager Conner requested that this item be pulled in order for the administration to provide information on the total construction budget for Barndoor Properties. She noted if questions are ready for Thursday's work session, this item will be on the January 22<sup>nd</sup> meeting and if not, it will be discussed at the February 4<sup>th</sup> City Council Meeting.

Victoria Peterson, of P. O. Box 101, commented on the \$200,000 loan requesting that citizens see written documentation that the developer will repay the loan back and if he does not, how will citizens get their money back.

Jackie Wagstaff, of 227 N. Briggs Avenue, spoke in support of the developer's record noting he has put a lot of time and effort in the area.

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cheek to continue this item until the January 22, 2002 City Council Meeting and to direct administration to provide information on the total construction budget for Barndoor Properties was approved at 8:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]**

**SUBJECT: ZONING MATTER CASE: P01-37 – HIGHWAY 55 RALDEN PROPERTIES, LLC - 6.98 ACRES ON HIGHWAY 55 AT THE NORTHWEST QUADRANT OF THE INTERSECTION OF HIGHWAY 55 AND ODYSSEY**

Case: P01-37

Applicant: Highway 55 Ralden Properties, LLC

Location: 6.98 acres on Highway 55 at the northwest quadrant of the intersection of Highway 55 and Odyssey, PIN 0739-03-23-6370, 6136, 6014; 0739-03-22-3869 (Tax Map 554, Block 2, Lots 1, 2, 3; Tax Map 551, Block 1, Lot 4A)

Request: Rezoning from R-20 (Residential 20 District) and SC (Shopping Center District) to GC(D) (General Commercial District with Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and SC and placing same in and establishing same as GC(D)

Zoning Committee Recommendation and Vote: Approval – (4-3)

Planning Department Recommendation: Approval

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Nazeeh Abdul-Hakeem, of the City/County Planning Department, briefed Council on the staff report noting this rezoning is consistent with the South Durham Plan. He noted the improvements are scheduled to improve several roads impacted by the proposal and this development will not occur until they are complete and that staff recommended approval.

Council Member Stith asked staff to comment on the road improvements.

Nazeeh Abdul-Hakeem, of the City/County Planning Department, made comments noting the state has the contract for the widening of NC 55 which is scheduled to start in 2003. Depending on the time they start construction, the applicant may be required to do another traffic impact analysis in terms of specific improvements to be made and this is a part of the rezoning request.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

### **Proponent**

Attorney Malvern King, representing the applicant, spoke in support of this rezoning making comments about the development plan, traffic impact analysis, and stated the proposal is consistent with small area plan. He noted the applicant has agreed to make all off-site road improvements required by the City's Transportation Department provided that at the time it applies for its Certificate of Occupancy, the improvements have not been made by the NCDOT or other developers in the area [see Item #3 on the development plan]. Also, he noted the applicant has agreed to remove the parking spaces within the floodplain and all requests made by staff and the Zoning Committee.

Mayor Pro Tempore Cheek asked staff if all improvements must be completed before this project receives a Certificate of Occupancy or submit a revised TIA.

Nazeeh Abdul-Hakeem of the City/County Planning Department noted yes.

Mayor Pro Tempore Cheek asked the administration what would be the process if all the improvements were not completed and another TIA was submitted.

Mark Ahrendsen, Transportation Manager, noted the applicant would have to comply with the requirements of that TIA to mitigate traffic impacts.

Mayor Pro Tempore Cheek asked the administration if this issue would have to come back to Council.

Nazeeh Abdul-Hakeem of the City/County Planning Department noted the Development Review Board would need to approve this and the applicant would have to complete the TIA and get site plan approval.

Attorney Malvern King, representing the applicant, noted the applicant is agreeable and understands the process.

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Mayor Pro Tempore Cheek noted the Council has had more than one problem with developments being depended upon road improvements from other developments.

No one spoke in opposition to this rezoning.

Mayor Bell declared the public hearing closed.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and SC and placing same in and establishing same as GC(D) was approved at 8:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: M01-01, MAJOR SPECIAL USE PERMIT FOR AN EXPANSION TO AN EXISTING COLLEGE TO ALLOW RESIDENTIAL USES - TROSA – 1820 JAMES STREET**

Case: M01-01 (**Continued from City Council Meeting on November 19, 2001**)

Applicant: TROSA

Request: A Major Special Use Permit for an expansion to an existing college to allow residential uses.

Location: 1820 James Street between Nation and Ward (Tax Map 053-01-005, PIN 0821-17-11-5385; Durham Street Atlas Page 29, A-3)

To hold the quasi-judicial (evidentiary) public hearing and evaluate the evidence presented. The Planning staff will make a recommendation after the hearing of the case. After the hearing, one of these two motions is in order:

**Motion A: (Approval With or Without Conditions)** - To direct the Planning Director to prepare a decision granting with conditions the Use Permit in Case M01-01. (Council should identify any conditions they wish to incorporate into their approval. Staff will prepare the decision for Council's next meeting for action.)

**Motion B: (Disapproval)** - To direct the Planning Director to prepare a decision denying the Use Permit in Case M01-01. (Council should identify the findings they are unable to make so these can be incorporated into the decision. Staff will prepare the decision for Council's next meeting for action.)

City Clerk D. Ann Gray swore in the following individuals: Dick Hails, Dennis Doty, Dan Jewell, Kevin McDonald, Eric Staehle, Renate Wend and Jennifer Albright.

Mayor Bell explained the proceedings for a Major Special Use Permit.

The Mayor asked Council to reveal any possible conflicts and to withdraw from this hearing if necessary. Also, Mayor Bell asked if any Council Member had been exposed to any evidence or information that may not come out at the hearing tonight.

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Mayor Bell opened the public hearing.

**Testimony from Staff**

Dennis Doty of the City/County Planning Department briefed Council on the staff report and requested the staff report, attachments and exhibits be entered as evidence.

The Mayor asked if there were questions for staff.

Council Member Best asked staff to comment on the transportation impact for the surrounding area.

Dennis Doty of the City/County Planning Department noted you have 4 single family dwellings along James Street which will each have its own driveway, a two-way driveway off Nation Avenue which would serve the interior of the property including 3 town home buildings on Nation, the 6 4-unit apartment buildings and the 2 dormitory buildings located on the interior of the property. You wind up with 4 driveway curb cuts off of the single family dwellings on James Street and one curb cut off of Nation as well as the main entrance which is being used for the primary traffic entrance and exit right now. The traffic from the apartments and the town homes on the interior of the site, again counting a total of 34 dwelling units, will be coming off the new driveway entrance on Nation.

Council Member Best asked staff if they found a need for any transportation improvements as a result of the increase in dwellings.

Dennis Doty of the City/County Planning Department replied no. He noted according to the applicant, first year students will be living in the dorms and will not have their own vehicles on site which lessens the potential impact and that the Transportation Department did not require any off-site improvements.

**Testimony from Applicant**

Dan Jewell, representing the applicant, spoke in support of this major special use permit. He submitted a color site plan to be entered as evidence.

City Attorney Blinder asked if there were any objections to the site plan being entered as evidence.

There were no objections.

Dan Jewell, representing the applicant, gave an overview of the project discussing the expansions for James Street [4 additional homes, removal of old Dairy complex and adding a brick structure] and on Nation Avenue [3/2-unit town homes; new construction for residential accommodations for students—dormitory/apartments, expansion of administrative offices with a community center, auditorium, automotive training center, single storage buildings]. He noted very few of the TROSA residents will have cars except when given one upon graduation and the applicant has agreed to relocate the contracting, moving and landscaping aspects of the training operation to a site near downtown so that the vehicular and truck traffic will go away from the site. Also, he made comments about the campus, lighting, landscaping/buffering and neighborhood concerns.

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Kevin McDonald, representing the applicant, spoke in support of this project noting it will centralize the TROSA operation and would create a campus environment.

Jennifer Albright, representing the Tuscaloosa Neighborhood Association, spoke in support of this item. Also, she requested the following conditions be included in the major special use permit: 1) a maximum number of 20 cars at the training facility; 2) timeline of 12 months for the removal of businesses from the campus to downtown facility; 3) a total of 275 residents housed on campus to include the houses on James Street, Nation Avenue and the residents within the property.

Renate Wend, of 1723 James Street, spoke in support of this item noting it is a good plan and expressed a concern about not having enough vegetation on the site.

Due to a citizen request, the Mayor asked the City Attorney if citizens can be sworn in at this time.

City Attorney Blinder noted it would not be prohibited and would be up to the Council.

City Clerk Gray swore in the following individuals: Victoria Peterson and Michael Rogers.

Michael Rogers, a former resident of TROSA, spoke in opposition to the major special use permit urging Council to investigate TROSA noting it is not a rehab center but a sweatshop. Also, he noted that TROSA is not being monitored by any outside entity.

Victoria Peterson, of P. O. Box 101, spoke in opposition to the major special use permit raising a concern about individuals working for nothing or very little income and urged Council to investigate the non-profit component of TROSA.

Mayor Bell noted this concludes all persons speaking for and against the proposed plan.

### **Staff Recommendation**

Dennis Doty of the City/County Planning Department asked the Mayor if the applicant could speak to the conditions noted by Ms. Albright before the administration makes a recommendation.

Kevin McDonald outlined reason for leaving the number of cars at 30, letting the Durham City Code dictate the housing issue and 18 months for the removal of the training related businesses.

Dennis Doty of the City/County Planning Department noted that staff is recommending approval of the Use Permit subject to the following conditions: 1) all project phases shall have approved site plans; 2) the maximum number of vehicles to be stored on-site for the vehicle maintenance training facility shall not exceed 30; and 3) the training related businesses such as the moving company and landscaping, painting and construction services shall be relocated to a properly zoned site within 18 months of the Use Permit approval date.

Mayor Bell commented on the process noting that Council will not take any action tonight but requested that the public hearing be continued until the January 22, 2002 City Council Meeting to take action on this item.

Mayor Pro Tempore Cheek asked the City Attorney if conditions are attached to the Use Permit and not completed within the timeframe, can the applicant come back to request an extension.

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City Attorney Blinder commented on the permit being amended by having a new quasi-judicial hearing.

Council Member Stith asked for clarification on the total number of residents.

Dennis Doty of the City/County Planning Department made comments relative to the zoning ordinance setting the requirement for the number of residents that can occupy the dwelling units.

Council Member Edwards asked the applicant if they have a response to Mr. Rogers' claims about the activities of TROSA.

Dennis Doty of the City/County Planning Department noted that TROSA is for both the rehabilitation and education of substance abusers.

Kevin McDonald, representing the applicant, indicated the program is voluntary. He noted the residents of TROSA can leave at any time and that financial audits are completed yearly by an outside audit. Also, he noted this is a two-year commitment and there is no charge to come to TROSA.

Council Member Clement spoke in support of the Major Special Use Permit for TROSA.

Mayor Bell asked the administration if they were satisfied with the amount of buffering and tree requirements for this plan.

Dennis Doty of the City/County Planning Department noted yes.

Mayor Bell asked the City Attorney to comment on what Council could consider in making a determination on this matter.

City Attorney Blinder briefed Council on the staff report referencing pages 2 through 4 highlighting the general findings for a special use permit.

Mayor Bell requested that the public hearing be continued until the next council meeting to allow staff to provide the wording for the final decision.

Council Member Clement asked if the public hearing is closed.

Mayor Bell replied no.

Relative to staff preparing the order, City Attorney Blinder asked if they should interpret the motion to include the proposed conditions as stated.

Mayor Bell replied yes.

Dennis Doty of the City/County Planning Department noted the administration did not include the condition on the number of residents due to the code but if Council wishes, staff can leave it in. Also, he indicated that staff recommends three considerations to include all site plan approval for all projects phases, the number of cars (30) and the 18-month timeframe for removing businesses.

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Mayor Bell asked staff if they had any objection to adding the condition for the number of residents.

Dennis Doty of the City/County Planning Department indicated that there was no objection from staff.

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to continue the public hearing until the January 22, 2002 City Council Meeting and to direct staff to prepare a decision granting with conditions the Use Permit in Case M01-01 – TROSA as follows: 1) All projects phases shall have approved site plans; 2) The maximum number of vehicles to be stored on-site for the vehicle maintenance training facility shall not exceed thirty; 3) The training related businesses such as the moving company and landscaping, painting and construction services shall be relocated to a properly zoned site within 18 months of the Use Permit approval date; and 4) The maximum number of on-site residents shall not exceed 275 was approved at 9:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[SUPPLEMENTAL ITEM]**

**SUBJECT: SALES TAX REFUND AUDIT – COUNTY OF DURHAM**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cheek to authorize the City Manager to enter into a contract requiring the City of Durham to pay the County 42.9% of the fee the County incurs from its Sales Tax Refund Audit contract was approved at 9:49 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

At this time during the meeting, City Manager Conner gave an assessment of the City's response to the winter storm discussing key areas relating to safety, communications, purchasing and logistics.

Mayor Bell noted a citizen has requested to speak on GBA Item 13 [Rejection of the Offer to Purchase City Tract #50 on Hillsborough Road] which Council has already taken action on.

Tom Miller representing the Watts Hospital-Hillandale Neighborhood Association noted that they would like for the City to lease the property for a cell tower. He urged Council to reconsider the vote taken on this item and to defer this matter for one cycle.

Mayor Bell noted this item was discussed at the Council Work Session.

**MOTION** by Council Member Best seconded by Council Member Stith to extend the meeting beyond 10:00 p.m. was approved at 10:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

A motion was made by Council Member Stith to reconsider the action taken by Council on GBA Item 13 [Rejection of the Offer to Purchase City Tract #50 on Hillsborough Road]. Motion dies for a lack of a second.



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**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to go into a closed session to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body pursuant to G.S. 143-318.11 (a) (4) was approved at 10:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**[OPEN SESSION]**

**MOTION** by Mayor Pro Tempore Cheek seconded by Council Member Stith to go into open session was approved at 10:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

No action taken by Council.

There being no further business to come before the City Council, the meeting was adjourned at 10:41 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk